

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lianne May	Team: Squad #08	CCRB Case #: 202303123	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/11/2023 4:25 PM	Location of Incident: 42nd Precinct Stationhouse	18 Mo. SOL 10/11/2024	Precinct: 42		
Date/Time CV Reported Tue, 04/11/2023 5:07 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 04/11/2023 5:07 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Eduardo Dossantos	18962	954751	042 PCT
2. SGT Rosemarie Saez	03742	948880	042 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Jonathon Mendes	01432	961944	042 PCT
2. PO Justin Perez	13630	969286	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Eduardo Dossantos	Off. Language: Police Officer Eduardo Dossantos made remarks to § 87(2)(b) based upon race.	
B . PO Eduardo Dossantos	Discourtesy: Police Officer Eduardo Dossantos spoke discourteously to § 87(2)(b)	
C . PO Eduardo Dossantos	Abuse: Police Officer Eduardo Dossantos did not process § 87(2)(b) complaint regarding an officer.	
D . SGT Rosemarie Saez	Abuse: Sergeant Rosemarie Saez did not process § 87(2)(b) complaint regarding an officer.	
E . PO Eduardo Dossantos	Discourtesy: Police Officer Eduardo Dossantos acted discourteously toward § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

§ 87(2)(b) filed the following complaint on April 11, 2023, through the CCRB Call Processing System (BR1).

On April 11, 2023, at approximately 4:25PM, § 87(2)(b) went to the 42nd Precinct stationhouse in the Bronx to file a complaint against an officer from a previous arrest. 42nd Precinct Police Officers Eduardo Dos Santos and Justin Perez were standing outside the stationhouse and PO Dos Santos allegedly stated, “niggers can’t be walking in like that” regarding § 87(2)(b) entering the stationhouse (**Allegation A: Offensive Language**, § 87(2)(g) **Allegation B: Discourtesy**, § 87(2)(g) § 87(2)(b) asked PO Dos Santos and 42nd Precinct Sergeant Rosemarie Saez to help him file a complaint against another officer and both told him to leave the stationhouse without processing his complaint (**Allegations C and D: Abuse of Authority**, § 87(2)(g) PO Dos Santos wore unsanctioned patches on his uniform (**Allegation E: Discourtesy**, § 87(2)(g) § 87(2)(g), § 87(4-b)

The investigation received three body-worn camera videos (BR2) and three stationhouse videos (BR3).

Findings and Recommendations

Allegation (A) Offensive Language: Police Officer Eduardo Dos Santos made remarks to § 87(2)(b) based upon race.

Allegation (B) Discourtesy: Police Officer Eduardo Dos Santos spoke discourteously to § 87(2)(b).

§ 87(2)(b) testified to the CCRB on April 14, 2023, that he was arrested on § 87(2)(b) and wanted to make a complaint about the arresting police officer. § 87(2)(b) went to the 42 Precinct stationhouse at 4:25PM on April 11, 2023, to file this complaint. As he approached the stationhouse, PO Dos Santos and PO Perez were standing on the front entrance steps. PO Perez never said anything or interacted with § 87(2)(b) told PO Dos Santos he wanted to make a complaint and PO Dos Santos told him he could enter. § 87(2)(b) entered the stationhouse through the open doors and was in the vestibule when PO Dos Santos stated, “niggers can’t be walking in like that” to PO Perez (BR4).

In stationhouse footage from the front of the building, from 25:15-25:51, § 87(2)(b) walks up to PO Perez and PO Dos Santos who are standing on the stairs in front of the stationhouse entrance. § 87(2)(b) looks straight inside the stationhouse for less than a second and then stops and interacts with PO Dos Santos from 25:20-25:51 until PO Dos Santos gestures inside and § 87(2)(b) enters (BR5).

In PO Perez’s BWC from 00:00-00:30 (BR6), there is no audio. § 87(2)(b) turns toward PO Dos Santos on the top steps of the stationhouse before entering the double front doors. At 00:02, PO Dos Santos gestures inside with his left hand and § 87(2)(b) enters. At 00:04, PO Dos Santos turns back to PO Perez and gestures with his left hand toward the door while stating something. At 00:11, he turns his head toward the door and § 87(2)(b) is about to open the second door into the stationhouse lobby. § 87(2)(b) turns around and begins to come back outside at 00:14 while stating something. PO Dos Santos turns to him but does not say anything. PO Perez gestures to § 87(2)(b) moving his hand into the camera view at 00:17.

PO Dos Santos testified to the CCRB on May 3, 2023, that § 87(2)(b) arrived at the stationhouse and repeatedly yelled that he wanted to speak to a sergeant with a name that started with a “V.” There is no member of service by that name in the 42nd Precinct. PO Dos Santos explained that he tried to ask § 87(2)(b) why he needed a sergeant to properly direct him, but § 87(2)(b) was

incoherent, and did not ever ask to file a complaint or request anything from PO Dos Santos. He did not say why he wanted to speak to a sergeant. PO Dos Santos stated, “okay sir, go ahead, go in.” § 87(2)(b) went inside, and PO Dos Santos began to talk about the rest of the day with PO Perez. PO Dos Santos stated that he may have used some profanity like “fuck,” in a personal conversation with PO Perez after § 87(2)(b) had entered the stationhouse. § 87(2)(b) returned from inside the stationhouse and asked what PO Dos Santos said. PO Dos Santos said that § 87(2)(b) therefore never heard any of his conversation with PO Perez because if he had, then he would not ask what PO Dos Santos said. PO Dos Santos denied stating any racial slur at any point (BR7).

PO Perez testified to the CCRB on May 9, 2023, that PO Dos Santos primarily interacted with § 87(2)(b). After § 87(2)(b) accused PO Dos Santos of calling him a name after first entering the vestibule, PO Perez told § 87(2)(b) that PO Dos Santos did not say anything. PO Perez never said anything else to § 87(2)(b). He did not recall, nor deny, whether PO Dos Santos made any racial slurs during this incident (BR8).

Because there is no audio, footage cannot corroborate § 87(2)(b) allegation that PO Dos Santos referred to him as a “nigger.” PO Dos Santos denied that he used any slur. PO Perez did not recall if PO Dos Santos stated any racial slur. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Eduardo Dos Santos did not process § 87(2)(b) complaint regarding an officer.

Allegation (D) Abuse of Authority: Sergeant Rosemarie Saez did not process § 87(2)(b) complaint regarding an officer.

§ 87(2)(b) testified that he walked back to clarify and ask what PO Dos Santos said after hearing him use the racial slur. PO Dos Santos stated again that § 87(2)(b) could go inside the stationhouse but then changed his mind and stated he could not go in “like that.” § 87(2)(b) asked what he meant, and PO Dos Santos stated, “get out of here, you can’t come in here,” and held § 87(2)(b) right arm around his bicep. § 87(2)(b) pulled his arm out of PO Dos Santos’ grasp and PO Dos Santos let go. § 87(2)(b) stated that he could enter because the stationhouse is a public place. § 87(2)(b) asked what PO Dos Santos meant by telling him he could not enter. Sgt. Saez and 42nd Precinct Officer Jonathon Mendes came to deescalate the situation and PO Dos Santos left. § 87(2)(b) told Sgt. Saez that he was there to make a complaint against an officer. Sgt. Saez stated that because PO Dos Santos did not allow him to enter, he could not enter. § 87(2)(b) then addressed PO Mendes and requested that PO Mendes provide him with the arresting officer’s and PO Dos Santos’ information and to help him file a complaint against the arresting officer. PO Mendes wrote down both of the officers’ information and the phone number for the CCRB. Sgt. Saez refused to allow him to enter and never interviewed him or provided him with complaint forms (BR4).

In PO Perez’s BWC from 00:30-1:49, § 87(2)(b) turns around to go back inside and PO Dos Santos gestures toward the door again. § 87(2)(b) turns around again and begins to speak with PO Dos Santos while standing in the threshold of the first door. At 00:28, PO Dos Santos enters the vestibule with § 87(2)(b) is in front and attempts to walk toward the lobby and PO Dos Santos holds § 87(2)(b) right elbow and turns him around, so they are in the front of the vestibule. PO Dos Santos gestures twice toward the exit of the stationhouse outside when talking to § 87(2)(b) at 00:31. They continue to talk as other officers come out of the stationhouse behind him and PO Perez and PO Dos Santos activate their BWC, so the audio begins at 1:00. At 1:05, PO Dos Santos asks § 87(2)(b) what is going on and § 87(2)(b) states, “I came here to make a complaint. That’s what I said, right?” PO Dos Santos states, “Okay. And you said to speak to the sergeant.

Don't raise your voice at me," as § 87(2)(b) speaks in a conversational tone. § 87(2)(b) attempted to say that he was walking away but PO Dos Santos interrupts him. At 1:17, § 87(2)(b) states, "now you getting me upset now because I was walking away and you said something and I came back and I said, 'what did you say' and you talking fly with your mouth and all that." At 1:27, PO Dos Santos states he was trying to escort him out of the building. When § 87(2)(b) asks why he needed to leave if he came here to make a complaint, PO Dos Santos states, "because if I'm telling you to leave, you have to leave," and § 87(2)(b) asks why he has to leave. At 1:36 PO Dos Santos states, "if you come in, you have to address the officer, you don't just walk in." § 87(2)(b) states that he came back in and asked a question and PO Dos Santos then states, "have a good one," and walks toward § 87(2)(b) asking him to "step back or no," out of the stationhouse (BR6).

In PO Perez's BWC From 1:50-5:00, § 87(2)(b) states that PO Dos Santos has a chip on his shoulder and a black male detective puts his hand on PO Dos Santos' chest and pushes him back. Sgt. Saez pulls PO Dos Santos' left arm back and PO Dos Santos enters the stationhouse and does not interact with § 87(2)(b) again. The black male detective tells § 87(2)(b) to "chill." At 2:08, § 87(2)(b) states he wants to make a complaint against officers. Sgt. Saez states that officers need to give § 87(2)(b) a phone number. § 87(2)(b) tells her someone told him to come and speak to a sergeant and she states, "not with that energy." PO Mendes states he will get the phone number for the CCRB and that Sgt. Saez is his sergeant. § 87(2)(b) requests the arresting officer's and PO Dos Santos' name and shield numbers. At 4:28, PO Mendes provides him with the CCRB phone number and the officers' names and shield numbers (BR6).

PO Dos Santos testified to the CCRB (BR7) that although the stationhouse is open to the public, officers need to know what business civilians want to conduct in the stationhouse and why they are entering. Usually, this falls to the stationhouse security, but on April 11, 2023, there was no stationhouse security and he and PO Perez were standing outside after roll call. PO Dos Santos explained that when he initially told § 87(2)(b) he could enter, that would suffice for him to enter but then he would have to tell the desk officers what he needed. When § 87(2)(b) came back outside, he was just as incoherent as when he entered and asked what PO Dos Santos said. PO Dos Santos and § 87(2)(b) went back and forth that nothing was said, but § 87(2)(b) kept asking what he said for about 45 seconds. PO Dos Santos testified that § 87(2)(b) speech in PO Perez's BWC from 1:10-1:30 was representative or even louder than the loud, incoherent speech he had upon approach. At this point, PO Dos Santos decided that § 87(2)(b) needed to leave the stationhouse because he walked through the security in front to do what he wanted, shouted at PO Dos Santos when he asked him what he wanted, and asked too many times about what PO Dos Santos previously said. PO Dos Santos told him to lower his voice, but § 87(2)(b) was still yelling, which was unreasonable when no one was refusing him service. However, PO Dos Santos also said that his initial entry was not a problem. PO Dos Santos told § 87(2)(b) that he needed to leave because § 87(2)(b) was refusing to do so. PO Dos Santos explained that he used his discretion to tell § 87(2)(b) to leave; § 87(2)(b) was not doing anything prohibitive inside the stationhouse. PO Dos Santos decided § 87(2)(b) needed to leave when § 87(2)(b) did not lower his voice when asked. PO Dos Santos went back inside the stationhouse Sgt. Saez's instructions. PO Dos Santos said that § 87(2)(b) never requested to file a complaint with him and so he never filed a complaint on his behalf (BR).

Sgt. Saez testified to the CCRB on May 4, 2023, that for civilians to file complaints against officers, officers provide the phone number for the CCRB and can sometimes fill out complaint forms, but only if the civilian asks for the complaint forms. PO Mendes was the officer helping her that day, and Sgt. Saez responded to the vestibule because she heard arguing but did not hear what was specifically being said. She knew PO Dos Santos to be a reasonable officer and so followed his decision to tell § 87(2)(b) to leave, although she did not know why that decision was made. She

separated PO Dos Santos from § 87(2)(b) to prevent the situation from escalating and told PO Mendes to give § 87(2)(b) whatever information he needed. Sgt. Saez instructed PO Mendes to do this because PO Mendes was the helper, and because § 87(2)(b) did not ask her directly to file the complaint. Sgt. Saez trusted that PO Mendes gave § 87(2)(b) the information he needed and that § 87(2)(b) would leave (BR9).

PO Mendes testified to the CCRB on May 8, 2023, that as a matter of procedure, when civilians want to file a complaint against officers, he informs his sergeant and follows her instructions. On the day of the incident, Sgt. Saez instructed PO Mendes to provide information to § 87(2)(b) and have § 87(2)(b) leave. PO Mendes provided the officers' information and the phone number to file a complaint to § 87(2)(b) and then told him to leave based on Sgt. Saez's instructions (BR10).

The investigation determined that PO Mendes was following Sgt. Saez's instructions to provide § 87(2)(b) with the phone number only. Sgt. Saez directed him to not take any other actions regarding § 87(2)(b) complaint. Therefore, the investigation focused on PO Dos Santos' and Sgt. Saez's refusal to file § 87(2)(b) complaint and did not list PO Mendes as a subject officer.

NYPD Patrol Guide Procedure 207-28 provides guidelines on processing civilian complaints received by uniformed members of the service. For civilians who wish to file a complaint in person, officers must interview the complainant, provide him or her with a civilian complaint report, and assist or allow another person to assist the complainant with completing the report. Officers must also prepare a civilian complaint report and inform the Civilian Complaint Review Board (BR11).

PO Dos Santos testified that § 87(2)(b) was becoming irate, yelling, and entered the stationhouse after PO Dos Santos revoked his initial permission to allow § 87(2)(b) entry. PO Dos Santos initially testified that § 87(2)(b) never told him he wanted to file a complaint; however upon watching the BWC footage during his CCRB interview, he explained that he did not process § 87(2)(b) complaint because Sgt. Saez pulled him away. BWC footage shows that § 87(2)(b) never yelled and did not become irate as PO Dos Santos stated. Rather, it showed § 87(2)(b) asking PO Dos Santos questions and that he did not engage in any prohibitive behavior. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Sgt. Saez testified that while she never saw the argument between PO Dos Santos and § 87(2)(b) she followed his decision and told § 87(2)(b) he needed to leave. She understood he wanted to make a complaint and delegated that task to PO Mendes because § 87(2)(b) never asked her to file a complaint directly. She never provided him with any forms because he did not ask for them. However, as per the Patrol Guide, after hearing his request to officers, Sgt. Saez was required to provide § 87(2)(b) with the options to be interviewed, receive complaint forms, or the phone number to file a complaint. She also never told PO Mendes to take these steps and only instructed him to provide a phone number. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Discourtesy: Police Officer Eduardo Dos Santos acted discourteously toward

§ 87(2)(b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

In the entirety of PO Perez's BWC, PO Dos Santos wears a patch on the front of his uniform (BR6).

This patch, in a Google Image to show it more accurately, shows a skull as the face of the Statue of Liberty with the phrase “LIBERTY IS DEAD” printed three times around it (BR12).

PO Dos Santos testified that he currently wears three patches of the New York state flag, the Brazilian flag, and the empire state building. PO Dos Santos then later stated his third patch is of the Statue of Liberty. He wears these because he works and lives in New York City and is Brazilian. He explained that the Department did not issue these but there is no Department rule stating he cannot wear these patches (BR7).

Per NYPD Patrol Guide Procedure 200-02, the mission of the NYPD is to enhance the quality of life in New York City by working in partnership with the community to enforce the law, preserve peace, protect the people, reduce fear, and maintain order. The NYPD maintains a higher standard of integrity than is generally expected of others. Additionally, it is their mission to value human life, respect the dignity of each individual and render their services with courtesy and civility (BR13).

§ 87(2)(g), § 87(4-b)

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR15).
- Police Officer Eduardo Dos Santos has been a member-of-service for nine years and this is the first CCRB complaint to which he has been a subject (BR16).
- Sergeant Rosemarie Saez has been a member of service for 12 years and has been a subject in 5 CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)

[REDACTED]

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of May 12, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (BR18).

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[REDACTED]

RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad: 8

Investigator:	<u>Lianne May</u>	<u>SI May</u>	<u>May 17, 2023</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Ethan De Angelo</u>	<u>IM Ethan De Angelo</u>	<u>May 17, 2023</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date